

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF TAX APPEALS
FILE NO. K02-S-189, K03-S-129 and K03-S-130**

**CROMWELL LOUISVILLE
ASSOCIATES, LTD., PARTNERSHIP**

APPELLANT

V.

ORDER NO. K-19265

**JEFFERSON COUNTY PROPERTY
VALUATION ADMINISTRATOR**

APPELLEE

The parties to these appeals have entered into a stipulation regarding all pertinent facts. With no factual determination to be made, the parties to these appeals have requested by way of briefs, that the Kentucky Board of Tax Appeals issue an order relating to two very narrow legal issues. The first issue is whether the appellant has properly prosecuted its appeal according to the time limits set forth in KRS 133.120. We think it has not, and therefore need not reach the second issue raised by the briefs.

KRS 133.045 provides in pertinent part:

The real property tax roll being prepared by the property valuation administrator for the current year, shall be open for inspection in the property valuation administrator's office for thirteen (13) days beginning on the first Monday in May of each year and shall be open for inspection for six (6) days each week, one (1) of which shall be Saturday.

The inspection period for the 2001 assessment was concluded by June 29, 2001. It was stipulated that a conference with the PVA regarding the 2001 assessment was not held until May 20, 2002.

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KRS 133.120 provides in pertinent part:

(1) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his designated deputy. The conference shall be held prior to or during the inspection period provided for in [KRS 133.045](#). (emphasis added)

No conference regarding 2001 tax assessment was held during the “current year” inspection period for the 2001 tax rolls.

KRS 133.120 sets forth the procedure for appealing the results of a conference if held during the inspection period for “current year” tax rolls:

(2) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals. ...The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in [KRS 133.045](#). (emphasis added)

This agency is a creation of the legislature. It is bound to follow the statutes as enacted. A prerequisite to all appeals to the Kentucky Board of Tax Appeals is the exhaustion of administrative remedies. *Parrent v. Fannin*, KY, 616 S.W.2d 501 (1981).

The legislature has required, a first step for any appeal of a property assessment, that the taxpayer must request a conference during the inspection period for the “current year” tax rolls, here being the 2001 tax year tax rolls, which inspection period ended June 29, 2001. Appellant did not request a conference nor a review of the 2001 assessment until the next year, after the inspection period regarding the 2001 tax rolls had closed. A conference in 2002 could not and did not repair this fatal flaw.

For the foregoing reason, these appeals are dismissed.

This is a final and appealable order. All final orders of this agency shall be subject to

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judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

A petition for judicial review shall not automatically stay a final order pending the outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or
- (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in

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compliance with KRS 13B.140(3).

DATE OF ORDER: February 17, 2005

**KENTUCKY BOARD OF TAX APPEALS
FULL BOARD CONCURRING**

**NANCY MITCHELL
CHAIR**